IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

MFA.No. 357 of 2000()

OPMV.343/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM DT. 19.7.1999.
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APPELLANT: PETITIONERS
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1. **PATHUMMA, W/O. LATE ABBAS, AGED 37 YEARS.**
2. **MOHAMMED RAJEESHBABU, S/O. ABBAS, AGED 20 YEARS.**
3. **SHIHABUDEEN PATTAMBI, S/O. ABBAS, AGED 17 YEARS, (MINOR)**
4. **MOHAMMED ANZAR, S/O. ABBAS, AGED 13 YEARS, (MINOR)**
5. **MOHAMMED NIZAR, S/O. ABBAS, AGED 13 YEARS (MINOR)**
6. **KADEEJA, W/O. LATE ABBAS, AGED 30 YEARS**
7. **MOHAMMED NISHAD, S/O ABBAS, 9 YEARS (MINOR)**
8. **PATHUMMA, W/O. PATTAMBI MOHAMMED, AGED 79 YEARS, (MINORS 3 TO 5 AE REP.BY THE NEXT FRIEND AND GUARDIAN APPLICANT NO.1 AND MINOR NO.7 IS REP.BY THE NEXT FRIEND AND GUARDIAN APPLICANT NO.6. ALL THE PETITIONERS ARE RESIDING AT PARIYAPURAM, WARD NO.IX, ANGADIPPURAM , MALAPPURAM DISTRICT**

BY ADV. SRI.LEGY ABRAHAM

M.F.A. NO.357/2000.

RESPONDENTS: RESPONDENTS 1,3 4, 5 & 6.
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1. K. MOHAMMED ALI, S/O.BIYYAKUTTY, KOTHRADAN HOUSE, P.O. MELATTOOR, MALAPPURAM.

2. THE MANAGER, UNITED INDIA INSURANCE COMPANY LIMITED , DIVISIONAL OFFICE, ARAFA BUILDING , 2ND FLOOR, P.B. NO.5, COURT ROAD, MANJERI.

3. C.P. ABDUL RASAK, S/O.POCKER HAJI, CHARUPULIKKAL HOUSE, P.O. PANG, MALAPPURAM.

4. THE MANAGER, UNITED INDIA INSURANCE COMPANY LIMITED, BRANCH OFFICE, 5/385, CALICUT ROAD, PERINTHALMANNA 7.

***5. K.P.VEERAN, S/O.AYAMMU, KALATHUMPADIYIL HOUSE, PATTAMBI ROAD, PERINTHALMANNA (REMOVED)**

THE 5TH RESPONDENT IS REMOVED FROM THE PARTY ARRAY, AT THE RISK OF THE APPELLANTS VIDE ORDER DT. 24.5.07 ON IA. 592/2007.

BY ADV. SRI.SIBY MATHEW - R2 & R3
SRI.WILSON URMESE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No.357 of 2000

Dated this the 2nd day of July, 2007

Judgment

Koshy, J.

A 32 year old young man died in a motor accident. The dependents of the deceased filed a claim petition claiming an amount of Rupees Four lakhs. The tribunal found that the accident occurred due to the composite negligence of two vehicles involved and both were insured by the United India Insurance Company Limited who were arrayed as third and fifth respondents in the O.P. (M.V.). Total compensation calculated by the tribunal was only Rs.2,59,300/-. Legal representatives of the deceased are his two wives, aged 28 and 21 at the time of death. He had four children in the first wife and one child in the second wife apart from that his mother was living (8th petitioner). Only quantum of compensation is disputed.

2. It was contended that the deceased was a timber merchant and getting Rs.2,000/- per month. He was maintaining a large family. However, no data was produced and tribunal fixed Rs.1,800/- as the income.

The accident occurred in 1991. Rs.1,800/- fixed cannot be stated to be on the lower side. The tribunal has fixed 17 as the multiplier considering the second schedule. We are of the view that no enhancement is necessary in the multiplier. One-third of the monthly income was deducted for the purpose of calculating the compensation. No grounds are made out for interfering int he above calculation. Even though death occurred immediately after the accident, a sum of Rs.5,000/- was granted towards pain and suffering. Rs.2,000/- was granted as funeral expenses etc. Even though he was having two wives, only Rs.5,000/- was granted as loss of consortium. He was very young at the time of death. Wives were also very young. Considering these aspects, we are of the opinion that Rs.7,500/- each ought to have been granted as loss of consortium. After deducting Rs.5,000/-, Rs.10,000/- more should be given towards consortium. We see no ground to enhance the compensation granted under other heads. The above additional compensation of Rs.10,000/- with 8% interest from the date of application till the date of deposit should be deposited 50% each by the 2nd and 4th respondents in the

appeal and, on deposit of the amount, the appellants 1 and 6 can withdraw the same in equal proportion.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A.NO.357/2000

JUDGMENT

Dated:2nd July, 2007